

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON**

**THERESA RAPLEY; SUE RIDDELL;  
JUDY TINSMAN; ANNAMARIA  
MAGLIULO; ANGELA FENN; BRITNY  
DE LEON and DERRICK NEELEY,**

Plaintiffs,

v.

**OREGON DEPARTMENT OF HUMAN  
SERVICES, STABILIZATION AND  
CRISIS UNIT; JANA MCLELLAN;  
BRADLEY HEATH; TESSA BASTON;  
and CLYDE SAIKI, individually and in  
their official capacities,**

Defendants.

Case No. 3:17-cv-294-YY

**ORDER**

**Michael H. Simon, District Judge.**

United States Magistrate Judge Youlee Yim You issued Findings and Recommendation in this case on June 19, 2017. ECF 8. Judge You recommended that Defendants' Motion to Dismiss, ECF 3, be granted. No party has filed objections.

Under the Federal Magistrates Act (“Act”), the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C.

§ 636(b)(1). If a party files objections to a magistrate’s findings and recommendations, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review de novo magistrate’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge You’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court **ADOPTS** Judge You’s Findings and Recommendation, ECF 8. Defendants’ Motion to Dismiss (ECF 3) is GRANTED. Claims three and four are dismissed with prejudice for failure to state a claim, and Plaintiffs are granted leave to amend claims one and two under the danger creation exception recognized by *DeShaney*

*v. Winnebago Cty., Dep't of Soc. Servs.*, 489 U.S. 189 (1989); *L.W. v. Grubbs*, 92 F.3d 894 (9th Cir. 1996); and *L.W. v. Grubbs*, 974 F.2d 119 (9th Cir. 1992).

**IT IS SO ORDERED.**

DATED this 7th day of July, 2017.

/s/ Michael H. Simon  
Michael H. Simon  
United States District Judge